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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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| Proceeding | 91216681 |
| Party | Defendant Aseptia, Inc. |
| Correspondence Address | ASEPTIA INC ONE WRIGHT WAY TROY, NC 27371 UNITED STATES mdrozd@aseptia.com, bdrozd@gmail.com |
| Submission | Answer |
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| Date | 07/28/2014 |
| Attachments | ANSWER.pdf(155972 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No. 85/849875
Published in the Official Gazette February 4, 2014

TYSON REFRIGERATED
PROCESSED MEATS, INC.,

Opposer,

v.

ASEPTIA, INC.,

Applicant.

Opposition No.

91216681

APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION, AFFIRMATIVE DEFENSES AND COUNTERCLAIM

Applicant, Aseptia, Inc. ("Aseptia"), for its answer to the Notice of Opposition filed by Tyson Refrigerated Processed Meats, Inc. ("Tyson") against application for registration of Aseptia's trademark WRIGHT WAY, Serial No. 85/849875 filed February 14, 2013, and published in the Official Gazette of February 4, 2014 (the "Mark"), pleads and avers as follows:

1. Applicant denies knowledge and information sufficient to admit or deny the allegations of ¶ 1.
2. Applicant admits that Aseptia is a corporation of North Carolina, but Applicant denies that the address of Aseptia is still 2021 Progress Ct., Raleigh, North Carolina 27608 or that Applicant is represented by an attorney in the application, as provided by ¶ 2.

3. Applicant admits to the allegations of ¶ 3.
4. Applicant denies knowledge and information sufficient to admit or deny the allegations of ¶ 4.
5. Applicant denies knowledge and information sufficient to admit or deny the allegations contained in ¶ 5.
6. Applicant admits to the allegations contained in ¶ 6.
7. Applicant denies knowledge and information sufficient to admit or deny the allegations of ¶ 7.
8. Applicant denies the allegations contained in ¶ 8 with respect to (1) the goods in Aseptia's trademark application are "highly related" to "all of the goods" covered by Tyson's registrations for the WRIGHT mark; (2) the "goods are all complementary in that, for example, they are commonly served together;" and (3) the "services are closely associated with the goods sold by Tyson in association with the WRIGHT mark."
9. Applicant denies knowledge and information sufficient to admit or deny the allegation of ¶ 9 relating to the priority of the WRIGHT mark.
10. Applicant denies each and every allegation contained in ¶ 10 since, at least, there is no confusion with regard to the goods of Tyson's mark are poultry or meats and Applicant's applied for goods are for "processed fruits, processed vegetables, broths, soups, and dairy products excluding ice cream, ice milk and frozen yogurt," which are not connected with or overlap with poultry or meat.
11. Applicant denies each and every allegation contained in ¶ 11 since consumers will not be confused between the term "WRIGHT" for use in poultry or meats as opposed to WRIGHT WAY with regard to processed fruits, processed vegetables, broths, soups, and dairy products

excluding ice cream, ice milk and frozen yogurt, since Applicant's mark has nothing to do with poultry or meats. The only commonality is Applicant's goods are in the same international class (i.e., 029).


12. Applicant denies each and every allegation contained in ¶ 12, especially the allegation that Applicant has poor quality of Applicant's goods and that Tyson will even have reduced sales since Applicant's products are not in the same area as Tyson's goods.

13. Applicant affirmatively alleges that there is no likelihood of confusion, mistake or deception because the Mark and the alleged trademark of Opposer are not confusingly similar since the goods of Tyson's marks are directed to poultry or other meats while the Mark's goods are for processed foods, namely, "processed fruits, processed vegetables, broths, soups, and dairy products excluding ice cream, ice milk and frozen yogurt." None of Applicant's goods overlap *whatsoever* with Tyson's mark. The only thing these two marks have in common is that they are in the same International class or may be sold in the same grocery store. Applicant's goods are not sold on store shelves that are proximate to Tyson's products and are in food products distinct enough from Tyson's goods so that consumers would not be confused as to the source of the goods.

WHEREFORE, Applicant requests that the notice of opposition be dismissed.

Respectfully Submitted,

ASEPTIA, INC.

By: 

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Date: July 28, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of July 2014, a true copy of the foregoing ANSWER was served in the following manner:

VIA EMAIL AND FIRST CLASS MAIL

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Attorney for Opposer

CERTIFICATE OF ELECTRONIC FILING

The undersigned certifies that this submission is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on this 28th day of July, 2014.

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